

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH DAKOTA
WESTERN DIVISION

DARYUSH VALIZADEH, an individual,

Plaintiff,

v.

JANE DOE, a/k/a "Susan"; and JOHN
AND JANE DOES 2-10, all whose true
names are unknown,

Defendants.

CIV. 16-5020

**NOTICE OF VOLUNTARY
DISMISSAL WITHOUT PREJUDICE**

Plaintiff DARYUSH VALIZADEH ("Valizadeh") files this Notice of Voluntary Dismissal Without Prejudice pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) and says:

Plaintiff Valizadeh filed his Complaint against Jane Doe a/k/a "Susan" and John and Jane Does 2-10 on March 30, 2016. Doc. No. 1. On March 30, 2016, Valizadeh filed his *Ex Parte* Motion for Leave to Take Early Discovery (Doc No. 6) and supplemented his Motion at the request of the Court with the original declarations on April 18, 2016 (Doc. No. 10). The case then laid dormant until June 24, 2016, when the action was reassigned *sue sponte* to the Hon. Lawrence L. Piersol (Doc. No. 11), who issued an Order shortly thereafter (Doc. No. 12). In the June 24, 2016 Order (*id.*), the Court raised questions of personal jurisdiction in this District and the scope of discovery being requested. The Order set a briefing deadline of June 30, 2016, and an evidentiary hearing for July 6, 2016, to address those questions. *Id.*

Jurisdiction is proper in South Dakota based upon its long-arm statute, S.D. Codified Laws §§ 15-7-2(2) and/or (14), or, alternately, pursuant to Fed. R. Civ. P. 4(k)(2). The scope of discovery sought was narrowly tailored to identify "Susan." Plaintiff was prepared to demonstrate both to the Court's satisfaction.

However, on June 27, 2016, the Court issued an Order (Doc. No. 13), directing the Clerk to serve a copy of the June 24 Order upon former counsel for S. Jane Gari, Attorney Paul Levine,

both of whom were the subjects of Valizadeh's early discovery motion. Plaintiff is advised that Mr. Levine is no longer Ms. Gari's attorney and her subsequent counsel also no longer represents her. Thus, it appears Ms. Gari would be unrepresented in, and possibly absent from, this proceeding.

The June 27 Order suggests that ensuring Ms. Gari can be heard is preferable. Plaintiff agrees that Ms. Gari's involvement is desirable, but she seems to have been unable to secure a lasting relationship with counsel. As a result, the best way to ensure she is heard is in the courts of South Carolina, her home state.

Fed. R. Civ. P. 41(a)(1)(A) provides that "the plaintiff may dismiss an action without a court order by filing: (i) a notice of dismissal before the opposing party serves either an answer or a motion for summary judgment." No Defendant has answered Mr. Valizadeh's Complaint or otherwise appeared in this matter. Thus, rather than let the instant action linger on the docket while litigation occurs in South Carolina, in the interest of judicial economy, Plaintiff Valizadeh hereby voluntarily dismisses this action without prejudice.

Dated this 28 day of June, 2016.

GUNDERSON, PALMER, NELSON
& ASHMORE, LLP

/s/ Donald P. Knudsen

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*Attorneys for Plaintiff,
Daryush Valizadeh*

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 28, 2016, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF and that a true and correct copy of the foregoing document is being served via transmission of Notices of Electronic Filing generated by CM/ECF. I further certify that a true and correct copy of the foregoing document is being served via electronic mail and U.S. Mail, postage prepaid, to:

Paul S. Levine
1054 Superba Avenue
Venice, CA 90291-3940
paul@paulslevine.com

Respectfully Submitted,

/s/ Donald P. Knudsen
Donald P. Knudsen